IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5052 OF 2006

Abdulla Ahmed Modak ..Petitioner.
Vs.
Smt.Ayesha Amiruddin Upadhey and Anr. ..Respondents.

Mr.Shripad Murthy i/b S.D.Samant, advs. for the Petitioner.

Mr.Chaitanya Pendse, adv. for the Respondent No.1.

CORAM : J.H.BHATIA, J.
DATE : AUGUST 24, 2007.

P.C.

1. Heard the learned counsel for the Parties.

2. Petitioner has already secured a decree for specific performance of the contract against respondent no.2 and that decree has been maintained by the District Court as well as the High Court while dismissing both the appeals filed by the defendant/respondent no.2. In the Execution Petition respondent no.1 Ayesha, who is a sister of the original defendant, contended that she had filed Civil Suit No.50 of 2002 claiming share in that property. That suit was dismissed and her Appeal No.20 of 2006 is pending before the District Court, Ratnagiri. In that appeal, status-quo order has been passed. She also filed an application as an objector in the execution

proceedings filed by the present petitioner. In that application, she was allowed to file objection. It appears that as long as the order of status-quo passed in the appeal is in force, execution can not proceed further. It appears that if the respondent fails in her appeal also, she will have no further ground or reason to raise any objection in the execution. In view of these circumstances, in my opinion, it will be in the interest of justice to give direction to dispose off the Appeal No.20 of 2006 as early as possible.

3. The District Judge, Ratnagiri is hereby directed to expedite the hearing and dispose off the Appeal No.20 of 2006 as early as possible and in any case by the end of November, 2007. No more directions are required. All the contentions of the parties are kept open and the learned Civil Judge Senior Division, before whom Special Darkhast No.4 of 2005 is pending, shall decide the objection application filed by the respondent on its own merits.

[J.H.BHATIA, J.]